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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,637	04/17/2001	Alberto Borgonovo	PA000007	7204

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EXAMINER
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SWERDLOW, DANIEL

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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05/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/836,637	<b>Applicant(s)</b> BORGONOVO, ALBERTO	
	<b>Examiner</b> Daniel Swerdlow	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 March 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "the vibration damping means" at the end of the claim. There is insufficient antecedent basis for this limitation in the claim. While Claim 2 recites "a vibration damping means", Claim 5 does not depend directly or indirectly from Claim 2. To advance prosecution, examiner treats the claim on the merits based on the interpretation that the recitation is intended as --a vibration damping means--.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 4 through 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsutsui et al. (US Patent 3,987,258).

6. Regarding Claim 1, Tsutsui discloses a sound apparatus (Fig. 1a) with a loudspeaker 6 and a cabinet 1 comprising a bottom half shell 1a that corresponds to the first cabinet claimed and houses bosses 4, a base plate 3 and electronic parts 5 that correspond to the electrical and mechanical components claimed and has an edge portion that corresponds to the confining area claimed that accommodates a top half shell 1b that corresponds to the separate second cabinet claimed that holds the loudspeaker 6, wherein an edge portion of the top half shell 1a that corresponds to the separate second cabinet claimed follows the shape of the edge portion of the bottom half shell 1a that corresponds to the confining area claimed and wherein the top half shell 1b that corresponds to the separate second cabinet claimed is connected to the bottom half shell 1a that corresponds to the first cabinet claimed in such a way as to withstand floating on water (column 3, lines 58-60) and high-pressure hosing (column 3, lines 46-52) and, as such, the connection is non-detachable.

7. Regarding Claim 2, Tsutsui further discloses a rubber seal 2 that corresponds to the vibration damping means claimed (column 2, lines 10-12).

8. Regarding Claim 4, Tsutsui further discloses fasteners (visible in Fig. 1a) that correspond to the urging means claimed. Since Tsutsui discloses a waterproof rubber seal 2, it is inherent that the top half shell 1b that corresponds to the separate second cabinet claimed is pressed against the bottom half shell 1a that corresponds to the first cabinet claimed.

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9. Regarding Claim 5, Tsutsui further discloses a waterproof rubber seal 2. As such, it is inherent that the top half shell 1b that corresponds to the separate second cabinet claimed is pressed against the rubber seal 2 that corresponds to the vibration damping means claimed (column 2, lines 10-12).

10. Regarding Claim 6, since Tsutsui discloses a waterproof cabinet, it is inherent that the edge portion that corresponds to the confining area claimed has substantially no openings.

11. Regarding Claim 7, Tsutsui further discloses a flange or lip (visible in Fig. 1a) that correspond to the protrusions claimed and surrounds the edge portion that corresponds to the confining area claimed that accommodates a top half shell 1b that corresponds to the separate second cabinet claimed and the rubber seal 2 that corresponds to the vibration damping means claimed.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsui in view of Heisrath (US Patent 3,473,625).

14. Regarding Claim 3, as shown above apropos of Claim 1, Tsutsui anticipates all elements except that Tsutsui discloses electronic circuitry only in the bottom half shell 1a that corresponds to the first cabinet claimed. Heisrath discloses an sound reproduction and loudspeaker assembly

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(Fig. 1) with separate enclosures for electronics (7, 9) and loudspeakers (23, 25) with a circuit board 31 that corresponds to the electronic circuitry claimed arranged in the loudspeaker enclosure. One skilled in the art would have known that such an arrangement provides better sound by using specialized loudspeakers for high and low frequencies, respectively, with a crossover circuit to permit each speaker to operate only on those frequencies it reproduces best. It would have been obvious to one skilled in the art at the time of the invention to apply the inclusion of circuitry with loudspeakers as taught by Heisrath to the sound apparatus taught by Tsutsui for the purpose of realizing the aforesaid advantages.

### ***Response to Arguments***

15. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow  
Primary Examiner  
Art Unit 2615

ds

11 May 2007